

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

NORTHWEST LABORERS-EMPLOYERS
HEALTH & SECURITY TRUST, WESTERN
WASHINGTON LABORERS-EMPLOYERS
PENSION TRUST, NORTHWEST
LABORERS-EMPLOYERS TRAINING
TRUST, and WASHINGTON AND
NORTHERN IDAHO DISTRICT COUNCIL
OF LABORERS

Plaintiffs

v.

MITCHELL CONCRETE, LLC

Defendants

NO.

COMPLAINT FOR BREACH OF
COLLECTIVE BARGAINING
AGREEMENT

COME NOW PLAINTIFFS, and for their cause of action, allege as follows:

1. Plaintiffs Northwest Laborers-Employers Health & Security Trust, Western Washington Laborers-Employers Pension Trust, and Northwest Laborers-Employers Training Trust (Trust Funds) are joint labor-management employee benefit trust funds created pursuant to § 302(c)(5) of the Labor-Management Relations Act (the Act), 29 U.S.C. § 186(c)(5) and bring this action in accordance with §§ 502(d)(1), 502(a)(3) and 515 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001, et seq.

COMPLAINT FOR BREACH OF
COLLECTIVE BARGAINING AGREEMENT—1

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1 2. Plaintiff Washington and Northern Idaho District Council of Laborers and its
2 affiliated Union locals (Union) is a labor organization that has its principal office located at 3909
3 164th Street SW, Lynnwood, Washington.

4 3. Defendant Mitchell Concrete, LLC (Employer) is engaged in business within the
5 jurisdiction of this Court, and such business affects commerce within the meaning of § 301(a) of
6 the Act, 29 U.S.C. § 185(a).

7 4. Jurisdiction is conferred on this Court by § 301(a) of the Act, 29 U.S.C. § 185(a)
8 and §§ 502(a)(3) and 502(e)(2) of ERISA, 29 U.S.C. § 1132(a)(3) and § 1132(e)(2).

9 5. At all times material the Employer and the Union and its affiliated Local No. 242
10 were parties to a collective bargaining agreement (Labor Agreement) and Trust agreements,
11 material parts of which are set forth as Exhibits A and B, respectively, to this Complaint. Plaintiff
12 Trust Funds are third-party beneficiaries to the Labor Agreement.

13 6. The Employer has failed to abide by the terms and conditions set forth in the Labor
14 Agreement and the Trust Agreements and is and continues to be delinquent in the payment of
15 fringe benefit contributions, dues, and other wage deductions in an unknown amount for the
16 period February 2012 forward, which are due and payable under the terms of the Labor
17 Agreement and the Trust Agreements. The Employer's failure to pay is also a violation of § 515
18 of ERISA, 29 U.S.C. § 1145.

19 7. The Employer's failure to pay fringe benefit contributions, dues, and other wage
20 deductions which continue after the filing of this Complaint violates the Labor Agreement and the
21 Trust Agreements. The Employer's failure to pay is also a violation of § 515 of ERISA, 29
22 U.S.C. § 1145.

1 8. The full extent of the Employer's delinquency to the date of this Complaint is
2 unknown at this time and will be determined by an examination of the Employer's payroll records,
3 which examination is authorized by the Trust Agreements, ERISA, 29 U.S.C. §§ 1027 and 1059,
4 and controlling Federal court decisions. A Request for Production of Records has been issued
5 contemporaneously with this Complaint.

6 9. The continuing failure of the Employer to pay contributions, dues, and other wage
7 deductions and to file monthly contribution report forms makes the full extent of the Employer's
8 delinquency uncertain and it will be determined at the time of trial.

9 10. The Employer has failed to abide by the terms and conditions set forth in the Labor
10 Agreement and the Trust Agreements and is delinquent in the payment of dues and other wage
11 deductions owing to the Union.

12 11. Under the terms of the Labor Agreement and Trust Agreements to which the
13 Employer is bound, the Employer is also obligated to pay all liquidated damages in the amount of
14 15 percent (15%) of the delinquent contributions owing, interest computed at the rate of 15
15 percent (15%) per annum, and costs and expenses incurred, including reasonable attorney's fees.

16 12. If judgment is entered by default, reasonable attorney fees as of the date of this
17 Complaint is \$1,025.00.

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1 WHEREFORE, Plaintiffs pray for the following relief:

- 2 (a) Judgment against Defendant Mitchell Concrete, LLC representing contributions,
3 dues, and other wage deductions, liquidated damages, and interest in an amount to
4 be determined at the time of trial;
- 5 (b) All costs and attorney fees incurred; and
- 6 (c) Such other relief as the Court deems just and equitable.

7 DATED April 4, 2013

8 s/ Mary L. Stoll

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